

AIR WAR COLLEGE

AIR UNIVERSITY

**STRENGTHENING OUR SUSPECT-FOCUS: HOW THE
DEPARTMENT OF DEFENSE CAN IMPROVE ITS APPROACH TO
SEXUAL ASSAULT PREVENTION AND RESPONSE**

by

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Biography

Lt Col Terry L. Bullard was born and raised in Wilmington, North Carolina. He was commissioned a Second Lieutenant in the USAF in 1993 after being designated a Distinguished Graduate from the Air Force Reserve Officer Training Corps, The Citadel, Charleston, SC. He was selected for direct assignment to the Air Force Office of Special Investigations (AFOSI) and completed the USAF Special Investigations Academy in March 1994 where he was credentialed as a Special Agent. His early experience, especially in the areas of violent crime, resulted in his selection to an Air Force Institute of Technology program in Forensic Science in which he completed a Masters of Forensic Science at The George Washington University and a Fellowship of Forensic Medicine with the Armed Forces Institute of Pathology. After completing this program, Lt Col Bullard served as an AFOSI Forensic Science Consultant and provided forensic science guidance on AFOSI matters throughout the command and DoD.

During Lt Col Bullard's career, he has been selected to serve as the commander of two overseas AFOSI detachments responsible for providing AFOSI mission-area support and consultation to three USAF Wings and one Air National Guard Wing. He has extensive deployment experience in the Middle East and Central Asia serving and leading in tactical level units in Saudi Arabia, Turkey, Iraq, and Pakistan and on the HQ CENTCOM FWD-J2X staff in Qatar. While stationed in Qatar, Lt Col Bullard also served as the Counterintelligence Coordinating Authority-Qatar where he coordinated and de-conflicted DoD counterintelligence operations and investigations with the various US government agencies represented at the US Embassy, Qatar. In his last assignment prior to attending AWC, Lt Col Bullard served as the AFOSI Command Chair to Air University.

Introduction

Since 2004, the US Department of Defense (DoD) has experienced a great enlightenment in how it responds to allegations of sexual assault with the establishment of the DoD Sexual Assault Prevention and Response (SAPR) program. A background summary of the SAPR program relevant to this study has been included in this report as Annex A. Combining the significant gains made in the civilian sector in the form of better integration of various response organizations with the particulars of the military environment, the DoD committed to an improved community and victim-focused response to the problem of sexual assault in the ranks. While this has allowed the DoD to make significant progress in addressing sexual assault within the services, the current SAPR program and DoD Major Criminal Investigative Organizations (MCIOs) hold greater potential in employment of a more robust suspect-focus from the prevention and response perspectives. Specifically, based on the unique aspects of the military community, the DoD SAPR program construct, and the current research concerning the higher prevalence of repeat offenses among sex offenders than previously understood, the DoD is in a unique position to enhance utilization of aspects of the SAPR program to further empower victims, SARCs and MCIOs in their ability to detect sex offenders in the DoD and hold them accountable.¹ In order to firmly enhance this program, and each of its components, we must establish a way through which to view an effective sexual assault prevention and response program.

¹ Readers will note this study does not make use of the term “serial sex offender” and instead utilizes the descriptors “repeat”, “multiple”, and other like terms to afford a more neutral, overarching categorization of sex offenders. While Carney advises on page 149 of his work “that serial sexual assaults occur in all categories of rape: domestic, acquaintance, and stranger”, there was concern that using serial sex offender as a descriptor in this work directed at a more broad audience would cause confusion and a leap by some readers to associate the term with its most frequently associated variety of assailant – the stranger rapist – and unintentionally narrow their focus throughout the course of the report. Therefore, more general language was used to help prevent this possibility.

Visualizing A Holistic Sexual Assault Prevention and Response Program

To help initiate and focus the examination of the DoD SAPR program, this study began by creating a model through which to examine the critical aspects of the crime of sexual assault within the context of current and future prevention and response programs. A careful analysis of the DoD SAPR program's history and current construct (included in Annex B) as well as a sampling of prevention and response programs from selected US jurisdictions found that programs generally considered three immutable aspects in addressing sexual assault – victims, suspects, and the community.² This relationship, and general points relevant to each focus point, are best visualized in the relationship triad included in Figure 1.

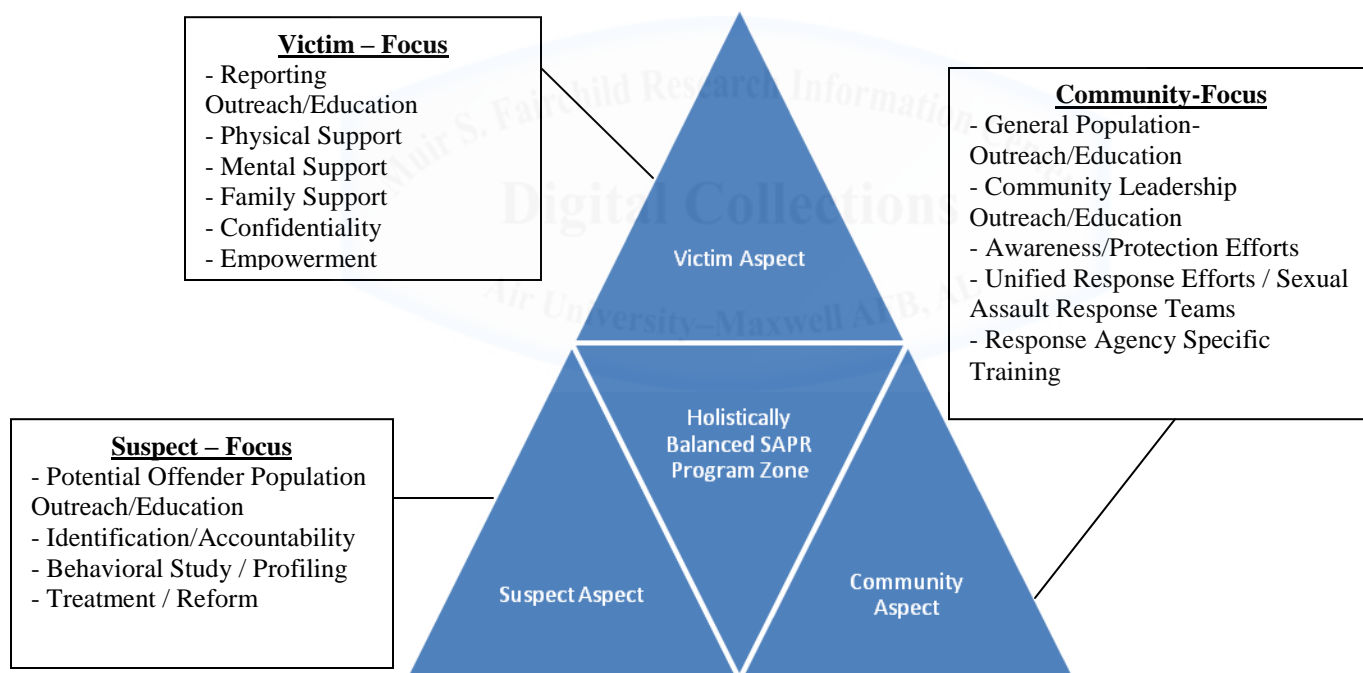


Figure 1: Sexual Assault Relationship Triad Model

A vast majority of the programs reviewed were heavily focused on a victim-centered response.

Secondary emphasis was placed on the community ranging from improved readiness among

² The samples referenced in this report were gathered through research conducted on the National Sexual Violence Resource Center (NSVRC) website which included samples of state, city and county prevention and response program guides and aids. The NSVRC website (<http://nsrv.org/about/national-sexual-violence-resource-center>) and the individual sites for the programs consulted are included in the bibliography section under online sources.

response organizations to broader education ventures focused on prevention and a more informed understanding of the nature of sexually based offenses.³ The DoD SAPR program construct has seized on the unique characteristics of the DoD “closed community” in able to address both victim and community outreach and education to a far greater extent than those likely possible by its civilian counterparts.⁴ However, for a program to rate as truly holistic under the proposed model it must strive to optimize efforts in each of the three aspects.

Further reviews of the programs utilizing the relationship triad demonstrate that, while strengthening the ability to dissuade and detect sex offenders is sought, the most difficult aspect to address directly is the suspect-focus. This is natural and inherent to this criminal behavior as the community-focus can be targeted for better education and response and the victim-focus improved to encourage and empower victims to come forward with allegations. The suspect-focus remains more difficult to address as offenders remaining unidentified and criminal justice systems’ difficulty, within the civilian community and DoD, in holding them accountable essentially provides offenders with a high-gain, low-risk criminal opportunity.⁵ A majority of the programs reviewed relied primarily on advances in the areas of treatment, interaction, and empowerment of victims and secondarily on community education and training to increase the number of allegations brought forward and suspects identified who would then be subjected to improved law enforcement and prosecutive efforts. However, an evolving body of research into

³ For a better understanding of the “victim-centered response” applied in this study, an excellent description was identified at the Winona County, MN website which captures the prevailing emphasis used by most of the response models explored to include the DoD SAPR program. Winona County, Minnesota Sexual Assault Interagency Protocol. “Victim-Centered System.” <http://www.winonacounty.com/Victim.htm>

⁴ The DoD SAPR guidance is highly structured in mandatory annual training requirements for the general communities with more targeted annual requirements for commanders and responders within the DoD services. All of this is tracked to ensure the force gets as close to 100% contact as possible. This, in turn, gives the SAPR program unparalleled outreach and contact opportunities with both current and future victims to include education of the Restricted and Unrestricted reporting programs.

⁵ Department of Justice, *Systems Change Analysis of SANE Programs: Identifying the Mediating Mechanism of Criminal Justice System Impact*, Document No.: 22649, April 2008, pg 1 – This report identifies that overall, only 14% to 18% of all reported sexual assaults are prosecuted.

sex offender behavior, teamed with the special aspects of the DoD SAPR program itself, have now positioned the DoD to pursue the suspect-focus of the triad as never before; a position that may allow for the development of a prevention and response program unparalleled in the civilian community. The following sections will further explore the developments and challenges in enhancing this focus.

Points of Consideration in Enhancing the SAPR Program's Suspect-Focus

Increased Knowledge of the Nature of Sex Offenders

Numerous studies conducted before and after the turn of the century have shed light on the nature of sexual offenders. Of relevance to bolstering the DoD SAPR program's suspect-focus are those studies which have presented evidence that most sexual offenders carry out multiple sex offenses.⁶ While these studies have utilized a variety of approaches and methodologies, their analyses of previously identified sex offenders and previously undetected rapists from sample populations are particularly insightful to this study. Among those studies looking at previously identified offenders, the products of Abel et al and Weinrott and Saylor are particularly insightful. The 1987 Abel study, which examined a wide range of paraphilias, identified 126 rapists within the study's overall population of 561 participants.⁷ These 126 rapists admitted to a total of approximately 907 rapes committed against 882 victims.⁸ In 1991, Weinrott and Saylor looked at a population of 99 offenders taking part in a sex offender treatment program. Within this population 37 offenders were identified who had been arrested on 52 occasions and charged with 66 offenses ranging from rape, attempted rape, and forcible

⁶ Gene Abel et al, "Self Reported Sex Crimes of Nonincarcerated Paraphiliacs", *Journal of Interpersonal Violence*, 1987, Mark Weinrott and Maureen Saylor, "Self-Report of Crimes Committed by Sex Offenders", *Journal of Interpersonal Violence*, 1991, David Lisak and Paul Miller, "Repeat Rape and Multiple Offending Among Undetected Rapists", *Violence and Victims*, 2002, Abbey et al, "A Comparison of Men Who Committed Different Types of Sexual Assault in a Community Sample", *Journal of Interpersonal Violence*, 2007, McWhorter et al, "Reports of Rape Reperpetration by Newly Enlisted Male Navy Personnel", *Violence and Victims*, 2009

⁷ Abel et al, pg 16

⁸ Abel et al, pg 16-17

sodomy of a female adult.⁹ These 37 offenders went on to self-identify to having collectively committed 433 rapes.¹⁰

Complementing these known offender studies is a growing body of research examining undetected rapists taken from various sample populations. The first ground-breaking study in this area was performed by Lisak and Miller in 2002. As part of their study, a population of 1,882 students from a mid-sized, commuter university was examined using questionnaire tools through which 120 individuals met criteria for having committed rape or attempted rape.¹¹ Of these 120 subjects, 76 (63.3%) reported committing repeat rapes either against multiple victims or on more than one occasion against the same victim. In 2004, Abbey et al conducted a study of 163 men from a large urban community.¹² Among these participants, 64% self-identified as having committed various degrees of sexual assault with 60% reporting they had committed multiple assaults.¹³ In another study completed in 2009, McWhorter et al examined data from a final sample of 1,146 male US Navy personnel who voluntarily participated in a longitudinal study over their first 2 years of military service.¹⁴ Of the 13% (n=144) who admitted to committing at least one attempted or completed sexual assault incident between their 14th birthday and the end of their first year of military service, 71% (n=96) admitted to two or more offenses.¹⁵

The research noted above presents compelling evidence that those who carry out acts of sexual assault against another have between a 60-71% chance of either having a past involving sexual assault(s) and/or offending in the future. When viewed within the light of a DoD system

⁹ Weinrott and Saylor, pg 291

¹⁰ Weinrott and Saylor, pg 291

¹¹ Lisak and Miller, pg 78

¹² Abbey et al, pg 1570

¹³ Abbey et al, pg 1572

¹⁴ McWhorter et al, pg 206

¹⁵ Of note, these findings (reported in McWhorter et al on pgs 208-209) were based on behaviorally based questions that did not reveal flag words such as rape or sexual assault.

which allows for confidential reporting of sexual assaults under the restricted reporting program, two problematic contentions arise. First, offenders who've assaulted victims, who then file restricted reports to DoD Sexual Assault Response Coordinators (SARCs) constitute a high risk of being a continuing threat to DoD members and the communities in which the DoD places them. The second, and reciprocal of the first contention, is that victims, law enforcement entities, and DoD leadership pursuing allegations under the unrestricted reporting option do not have the benefit of the knowledge of previous assaults by the alleged offender based on his or her earlier victim(s) choosing restricted reporting and remaining confidential. Bearing these scenarios in mind, we will now turn to the current status of data collection within the SAPR program as it relates to SARC-victim interface.

Restricted Reporting “Gap” for Sexual Offenders

Under the SAPR program, the SARC has become the tactical level champion of victim support and integrating support services response to restricted and unrestricted sexual assault allegations. As part of conducting the administration of the SAPR program at the installation level, SARCs are provided a great deal of DoD guidance on programs to be implemented and reviewed as well as data collection concerning sexual assault allegations.¹⁶ Yet for all of these responsibilities and authorities, the DoD guidance reviewed as part of this research provided no authority or guidance for the collection of identifying information related to alleged perpetrators,

¹⁶ According to DoD Instruction 6495.02, pgs 16-17, 22, 48 and 58, SARCs are empowered to create a prevention focus supporting their respective installations and activities including a number of data collection responsibilities geared toward senior decision makers, education services ranging from general awareness for base populations through targeted, more specific training for those personnel who will comprise response teams for sexual assault allegations. SARCs are also empowered with mechanisms to facilitate response to sexual assault allegations through such actions as training and enlisting the support of Victim Advocates who directly engage with victims who've reported sexual assault, submitting victims to trained medical personnel for the execution and evidentiary collection of Sexual Assault Forensic Examination (SAFE) kits in Restricted Reporting cases, and encouraging victims who have elected Restricted Reporting to continue to consider a transition to Unrestricted Reporting. SARCs have even been afforded the ability, after consultation with appropriate legal authorities, to break the veil of Restricted Reporting without the victim's express consent given certain criteria to include preventing or lessening a serious or imminent threat to the health or the safety of the victim or another person.

especially as this relates to restricted reporting. While the DoD is working to stand up a central collection point for case support data, the Defense Sexual Assault Incident Database System (DSAIDS), no considerations have been proposed to allow for the collection of suspect identifying information for storage and future reference.¹⁷ In fact, beyond the scope of conducting training relative to the dynamics of sex offenders, the DoD guidance offers little in guidance for SARCs in identifying suspects in sexual assault allegations. While certainly, and appropriately, focused on supporting victims in the aftermath of an alleged sexual assault, there appears to be no formal guidance for working with victims on compiling identifying information on the suspects of their allegations. Further hampering capturing the identifying information of alleged offenders in restricted reports, DSAIDS once fielded will not include this capability nor is there a requirement for long term storage of such information within each individual SARC office.

To fully understand how detrimental this is to a truly holistic SAPR program one need only consider two factors. First, as previously established through the various research projects, is a majority of sexual offenders are repeat offenders. The second point comes in the form of dispelling a popularly held myth concerning sexual assault. Specifically, that the offender and victim in most sexual assault allegations have no previous relationship – that they are complete strangers.¹⁸ However, numerous studies have established that a preponderance of sexual assaults (in general, between 60% and 80%) are carried out by an offender known to the victim.¹⁹ While

¹⁷ In an e-mail communication with Mr Carl Buchanan, Program Manager, USAF Sexual Assault Prevention and Response on 11 Feb 11, the point was raised that the current view is the collection of crime details and actual incident information is outside of the scope of the SARC role and rests with the MCIOs. For some of the proposals in this paper to advance, this outlook would need to be reassessed as further SARC empowerment in this area would be critical to the goal of linking offenders to previous offenses which were made under the restricted report option.

¹⁸ Kimberly Lonsway, Joanne Archambault, and David Lisak, “False Reports: Moving Beyond the Issue to Successfully Investigate and Prosecute Non-stranger Sexual Assault”, pg 3

¹⁹ 2005 National Crime Victimization Studies, US DoJ, Thomas Carney, *Practical Investigation of Sex Crimes: A Strategic and Operational Approach*, Pg 92, Sharon Crowley, *Sexual Assault: The Medicolegal Examination*, pg 3, Robert Hazelwood and Ann Burgess, *Practical Aspects of Rape Investigations*, pg 184

a SARC spoken with during the course of this project noted a general hesitancy on the part of victims to share the identity of suspects in restricted reporting incidents, the research suggests a majority of victims know the identity of their assailant and there currently exists no systematic manner in restricted reports to collect this information and further empower victims in the future with enhanced decision-making capability of pursuing an unrestricted report if the alleged offender in their case is linked to another sexual assault allegation.²⁰ Lisak and Miller state that “There is a continuing perception, both generally and within the criminal justice community, that rapes committed by undetected rapists – rapes of acquaintances that typically go unreported – are somehow less serious than stranger rapes.”²¹ These types of assaults constitute the bulk of the threat to the force and the offenders in these cases may very well be multiple offenders. Efforts must be made within the DoD SAPR program to identify and confront them.

Lack of Data Collection / Analysis for Multiple Offenses

Working under the premise that a majority of sex offenders are multiple offenders and that data gathering at the victim-SARC level in restricted cases currently suffers from sub-utilization of potential data collection and comparison, this project turned to determining what multiple-offense trends could be examined within the military justice system. Initially, attempts were made through the Automated Military Justice Analysis and Management System at determining the frequency and results of criminal proceedings involving cases against sexual assault suspects where multiple victims are identified.²² An inquiry conducted in October 2010 revealed targeting this specific type of data for analysis on sexual assault legal actions was not possible. Therefore, a survey was developed and distributed throughout the USAF JAG Corps

²⁰ E-mail from Capt Daniel Katka, 27 Oct 10

²¹ Lisak and Miller, pg 74 quoting conclusions from S. Estrich, *Real Rape*, 1987 and J. W. Spears and C. Spohn, “The Effect of Evidence Factors and Victim Characteristics on Prosecutors’ Charging Decisions in Sexual Assault Cases”, *Justice Quarterly*, 1997

²² The Automated Military Justice Analysis and Management System (AMJAMS) aids in the management of military justice actions from the investigation through the appeals process.

which sought to gather information based on the experiences of former and serving SJAs. The 149 respondents provided two principle findings of interest:

- 71.7% of respondents estimated that in only 20% or less of their cases had evidence of multiple victims been uncovered.²³ This is interesting in light of the previously cited research advising that greater than 60% of surveyed sex offenders had assaulted on multiple occasions.²⁴
- 61.7% of respondents related that in their experience, cases where multiple victims were identified action was more likely to be taken against the suspect.²⁵

The questions and response totals for the survey are captured in Annex C.

This study then turned to each of the MCIOs to determine what could be developed from investigative data relevant to sex offenders with multiple victims as compared to single suspect – single victim allegations during the 2008-2009 timeframe. Each of the MCIOs (NCIS, AFOSI and CID) initially agreed to participate, however CID data was not received as of the conclusion of this study. Therefore, the final analysis included data relevant to the USMC, USN and USAF.²⁶²⁷ Based on the data provided, the following principle findings of interest were noted:

- The number of single-suspect/multiple victim investigations represented a small minority of the total number of sexual assault cases in the years surveyed (ranging from 2.76%-5.86%). As noted previously, this is interesting given the significantly higher figures we would expect given the research on sex offenders and multiple offenses.²⁸

²³ 2010-11 USAF JAG SAPR Survey, developed by the author for this study

²⁴ Another way to consider the significance of this finding is considering that in the Lisak and Miller study 91% of the sexual assaults noted were carried out by multiple offenders while the same category was at 95% in the study in McWhorter et al.

²⁵ 2010-11 USAF JAG SAPR Survey

²⁶ Julie Anderson E-mail, 18 Jan 11

²⁷ Lee Barnhill E-mail, 01 Feb 11

²⁸ An inference which could be drawn from this data point is that MCIOs, given the research evidence suggesting a high rate of multiple offenses among sex offenders, should be armed with well-researched information and protocols to which would enhance an investigator's ability to screen former associates of suspects who have a higher potential for being former victims.

- The percentage of “action taken” in single-suspect/multiple-victim cases (ranging from 27.3%-58.33%) was generally higher than the overall average for the annual total of cases (ranging from 17.96%-32.67%).²⁹

The specific questions and analyzed data from AFOSI and NCIS are included in Annex D.

The final review area consulted was the DoD SAPR FY09 data which covers information concerning sexual assaults at the departmental level. The initial review of the data subsets revealed that the DoD SAPR program is not collecting (or at least reporting) on the relationships between suspects and victims in sexual assault allegations.³⁰ And while this makes a direct correlation of suspects who were known and unknown to their victims impossible, there is still enough data relevant to suspects to make supportable conclusions that are consistent when viewed with the supporting research noted earlier.³¹ A review of this information revealed that identifying information about suspects was available in at least 76% of the data fields.³² Examples of those categories are included in Annex E. What becomes evident throughout this data review is that in a vast majority of DoD sexual assault investigations the offender is identifiable in more than three quarters of allegations. While the current data collection does not discriminate between those offenders who were previously known to the victim and those identified during the course of the investigation, the vast body of research in this area would tend to suggest strongly that a majority were identified based on the former versus the latter.³³

²⁹ This finding is very interesting and appears to be consistent with the SJA survey where 61.7% of the respondents felt there was more likely to be action taken in cases where evidence of multiple victims was presented. The “action taken” category was so named as it captured categories of action ranging from non-judicial punishment, court-martial conviction, discharge, etc based on how AFOSI and NCIS presented their data. However, as the sample cases were low in number, caution must be used in their interpretation and further study is warranted.

³⁰ DoD Report on Sexual Assault in the Military, FY 2009, pgs 57 - 81

³¹ 2005 National Crime Victimization Studies, US DoJ, Carney, Pg 92, Crowley, pg 3, Hazelwood and Burgess, pg 184, Bureau of Justice Statistics, *Criminal Victimization 2000: National Crime Victims Survey*, pg 8

³² DoD Report on Sexual Assault in the Military, FY 2009, pgs 57-81

³³ 2005 National Crime Victimization Studies, US DoJ, Carney, Pg 92, Crowley, pg 3, Hazelwood and Burgess, pg 184

Unfortunately, reinforcing the earlier point in this study, there is no data collection available concerning the suspects in restricted reporting categories indicating there is no emphasis on the collection and storage of information relative to suspects in the restricted reporting category even to the level of general demographic information.

Victim Confidentiality / Sensitivity vs Full Empowerment

Certainly the need for victim confidentiality and privacy has been well established in the various reviews carried out by the DoD in establishing the SAPR program. In the seminal work advocating a need for confidential reporting, The DoD Care for Victim of Sexual Assault Task Force, significant focus was placed on the need for victim privacy.³⁴ In regards to the standard actions focused on pursuing accountability against suspects, the task force noted the automatic investigation initiation upon referral of an allegation in the DoD, and the subsequent steps of witness interviews and crime scene searches, as bringing unwanted attention to the victim and acting as a hurdle to victims coming forward.³⁵ This theme was carried through to the DoD Report on Sexual Assault in the Military FY 2004 which advised DoD memoranda had consolidated the need for privacy into a confidential reporting vehicle where the victim would be permitted to report and receive medical treatment and support without generating an investigation.³⁶ It goes further in stating that the confidential reporting vehicle gives victims greater control over release of their information and also gives them access to accurate legal and judicial information to help him or her decide whether to pursue an investigation.³⁷

But this affording of privacy appears to have been complemented with a general concern over gathering information relevant to the suspect in restricted reporting scenarios from the

³⁴ DoD Care for Victims of Sexual Assault Task Force, pg 29

³⁵ DoD Care for Victims of Sexual Assault Task Force, pg 29-30

³⁶ DoD Report on Sexual Assault in the Military, FY 2004, pg 6

³⁷ DoD Report on Sexual Assault in the Military, FY 2004, pg 6

victims. However, the perspective must also be taken that the SAPR program as currently focused is missing the opportunity to more fully empower victims with critical information – another of the central tenets of the program – which may convince them to transition to unrestricted reporting and pursue actions accordingly. According to research conducted by T.S. Nelson, “Women repeatedly expressed concerns about...the offender being free to rape again. They felt powerless to do anything else since the investigation was out of their hands.”³⁸ In FY09, 714 victims elected to keep their reports within the restricted category.³⁹ The question becomes knowing what we have now established about the propensity of sex offenders to be multiple offenders combined with the DoD’s well-established program to capture more reporting from victims through its preventative, proactive education and dual track reporting options, has the DoD reached a point of now being able to increase its suspect-focus and further empower those 714 victims with greater knowledge? By viewing the collection and storage of suspect data in restricted reporting as creating the circumstances for further empowerment of victims, increasing the opportunity to protect the force as a whole, and increasing the accountability of suspects versus invading victim privacy, the DoD holds the key to institutionalizing one of the most holistic sexual assault programs in history.

Recommendations

Intensive Study Replicating Civilian Studies

Prior to taking any action to enhance the suspect-focus of the SAPR program, the DoD must first turn its sights on better understanding military perpetrators of sexual assault. As noted in the literature review earlier, we have studies in the civilian sector which provide evidence of a greater probability of repeat offending by both incarcerated offenders and previously

³⁸ T.S. Nelson, *For Love of Country: Confronting Rape and Sexual Harassment in the US Military*, pg 165

³⁹ DoD Report on Sexual Assault in the Military, FY 2009, pg 58

unidentified offenders.⁴⁰ The DoD community also has studies which address characteristics of suspects and victims in varying degrees.⁴¹ While these studies have begun to shed important light on military sex offender behavior relevant to sexual assault, more work needs to be carried out and the civilian studies give important guidance. This call, in more general terms, was initially made in a report from the U.S. Army Research Institute for the Behavioral and Social Sciences in 2006.⁴²

While the U.S. Army Research Institute took a broader view of research needs in the areas of sexual harassment and sexual assault, this study has focused on improving the suspect-focus of the SAPR program. Therefore, it is along these lines that this study advocates specifically for more in-depth study of military offenders in both the post-conviction and unidentified categories. Specifically, the DoD SAPR function should sponsor DoD research mirroring those conducted in the civilian community. The studies focused on post-conviction, incarcerated sex offenders should pursue goals such as those found in the Weinrott, Abel, and Lisak studies where, albeit through various means, where the researchers' works demonstrated evidence of the multiple sexual offense tendencies among sex offenders. A comprehensive study of offenders from all services in this status would help in establishing if the trend of a higher probability of multiple offenses by sex offenders noted in the civilian studies holds true among military offenders.

⁴⁰ Lisak and Miller 2002, Abbey et al 2007, Abel et al 1987, and Antonia Abbey and Pam McAuslan, "A Longitudinal Examination of Male College Students' Perpetration of Sexual Assault", *Journal of Consulting and Clinical Psychology*, 2004

⁴¹ L. Merrill et al, "Prevalence of Pre-Military Adult Sexual Victimization and Aggression in a Navy Recruiting Sample", *Military Medicine*, 1998, M. Harned et al, "Sexual Assault by Workplace Personnel and Other Types of Sexual Harassment: A Comparison of Antecedents and Consequences", *Journal of Occupational Health Psychology*, 2002, A. Sadler et al, "Factors Associated with Women's Risk of Rape in the Military", *American Journal of Industrial Medicine*, 2003, Valerie Stander et al, "Premilitary Adult Sexual Assault Victimization and Perpetration in a Navy Recruit Sample", *Journal of Interpersonal Violence*, 2008, McWorter et al 2009

⁴² Louise Fitzgerald, et al, Sexual Harassment and Sexual Assault: Research Reviews and Recommendations", US Army Research Institute, 2006

The US Navy Health Research Center has taken the first step in focusing on non-incarcerated military members in its examination of rape re-perpetration by enlisted male Navy personnel.⁴³ A DoD SAPR program with an invigorated, suspect-focused agenda could work to build on this study and expand it to a joint service, repeatable format to examine the findings over time. Furthermore, the baseline established in this study could be built upon to further our understanding of multiple dynamics of unidentified sexual offenders within the military.

Initiation of a DoD SARC-Victim Survey Concerning Suspect Information Initiative

Critical to the DoD SAPR program is the impact any potential change to operations will have on the supported victims who must continue to be at the center of concern in DoD sexual assault initiatives . As part of the initial work on this study, a former SARC with experience serving in a high tempo office at a USAF training base raised the concern that victims reporting within the restricted format were often not willing to provide information on the suspect involved in their reports.⁴⁴ This hesitation is understandable and must be explored before any changes to restricted intake reporting can be made. Therefore, an assessment of the potential for victim feelings concerning the collection of suspect information is necessary.

To achieve this task, a survey should be created and administered to victims making restricted reports to DoD SARCs department-wide. Based on the need for sensitivity, this survey would be given at a pre-designated follow-up appointment to victims who have declined to provide the identity of their alleged assailant. The survey would initially provide background on the proposed changes and enhancement to the DoD SAPR program in relation to the collection and retention of suspect identifying information in restricted reports for future use. Secondly, and more specifically, survey questions would look to determine if victims' willingness to

⁴³ McWhorter, et al 2009

⁴⁴ E-mail from Capt Daniel Katka, 27 Oct 10

provide information on the suspect would change if a new program which included the potential for secure, confidential storage of the information for future reference and linkage to other offenses by the suspect was implemented. A proposed sample survey for this purpose is included in Annex F.

Modification of DoD Annual Data Collection to Include Suspect-Victim Relationship Data

A review of the most recent FY 2009 DoD SAPR annual report reveals that the program has come a long way in its collection of relevant data related to sexual assault matters within the department since its first report in CY 2004.⁴⁵ Within the 2009 report, data relevant to both victims and suspects in a demographic context is clearly presented.⁴⁶ Data relevant to offenders is reported only from data collected from unrestricted reports in garrison and deployed status and covers the gender, age, grade, service, and status of suspects.⁴⁷ While data is also available relative to the incidents of assault in the restricted and unrestricted categories, it only covers the length of time between the assault and report to officials and the time and day of the week of the assault.⁴⁸

While this data gives both department and service-specific leadership and the public greater insight into the details of sexual assault in the military, more data is needed to both better understand the relationship between suspects and victims which would, among other things, provide empirical data of the relationships which hold higher risks of sexual assault and therefore become a steering tool for DoD investigators in identifying secondary victims.⁴⁹ Specific categories to capture victim-suspect relationships should include data collection points focused

⁴⁵ DoD Report on Sexual Assault in the Military 2004, pg 10, DoD Report on Sexual Assault in the Military 2009, pgs 57-82

⁴⁶ DoD Report on Sexual Assault in the Military 2009, pgs 57-82

⁴⁷ DoD Report on Sexual Assault in the Military 2009, pgs 57-82

⁴⁸ DoD Report on Sexual Assault in the Military 2009, pgs 57-82

⁴⁹ In the 11 Feb 11 E-mail with Mr. Carl Buchanan, Program Manager, USAF Sexual Assault Prevention and Response, he correctly raises the point that any pursuit of more in-depth data collection, especially in restricted reporting, must not overcome the first priority of SARCs being centered on victim support.

on types and frequencies of subject and victim relationships and interaction details between the victims of a single subject. Specific recommendations are included in Annex G. These categories will afford a better understanding of DoD sexual assaults as a whole and will allow for a better understanding of offender behaviors in the DoD which would enhance the ability of MCIOs to identify other victims and strengthen prosecutive efforts.

In Depth Analysis of Historical MCIO Cases to Refine Investigative Protocols

The collection of the annual data noted above will establish a clearer picture of offender behavior in DoD sexual assaults. However, an abundance of data from past experiences in single-suspect multiple victim investigations resides within the case files of the DoD MCIOs. Each of the services' MCIOs who assisted with this study have tackled allegations of adult offenders who have assaulted multiple adult victims. These past sexual assault investigations hold information which should be used to better structure approaches to sexual assault investigations as a whole. However, this information may not be readily available through database retrieval based on limitations of detail within MCIO investigative information systems. Therefore a more direct, hands-on method of retrieval will be necessary.

This initiative begs two questions: How should the data be extracted and what information should be targeted. On the former issue, potential courses of action for team structure and methodology are offered in Annex H. In the area of data collection, focus should be given to close examination of past incidents to create a useful guide of possible investigative leads based on the findings of past single-suspect multiple-victim investigative files. Data points of relevance would focus on subject-victim relationship parameters including relationship types, subject-victim meeting-to-assault time ratios, and time intervals between assaults. Offense specific parameters would include the frequency of alcohol/drug utilization with victims in

multiple-victim cases, environment/location of assaults, and correlations between garrison/training/deployment assault venues.⁵⁰ Data relevant to victimology including demographic profiles of victims from past multi-victim investigations may also hold relevance to indentifying individuals to screen for potential victimization in future investigations. The same focus could be given to suspect profiles as well to determine if any demographic or history of prior criminal and/or sexual harassment information may raise the probability the suspect is a multi-victim offender.

DoD Systems to Collect Suspect Identifying Data / SAPR-MCIO Interface

The most sweeping of these recommendations is the institution of a formal collection and storage capability of suspect identities by SARCs in restricted reporting cases in a retrievable format in support of two potential research and comparison functions noted below.⁵¹ As noted previously, this process would serve to further empower victims in choices concerning pursuit of their allegations through unrestricted means and impress upon them the depth of DoD support to their safety and others. It would also increase the potential for suspects to be held accountable individually and increase the potential for protection of the military community as a whole.

The initial need for ensuring fidelity in this process would be modification of the DSAIDS database to allow for long term storage of the identifying suspect data in restricted reports in searchable fields for future reference or development of a separate database at the DoD or installation/activity level which would have this same data entry and recall/comparison

⁵⁰ Another issue of note which emerged during the review of the annual DoD reports on sexual assault was the lack of published rates of alcohol and other drug use by victims and suspects prior to and during the course of sexual assaults. This may be another area of improved data collection for DoD level reports but is outside the scope of this study.

⁵¹ Empowering SARCs with the collection of suspect data, the mechanism(s) which would ensure victim control of access to such information under the current confidential reporting construct, and which DoD personnel would be permitted access to a SAPR database are significant legal issues which will need to be addressed if further pursuit of this proposal are considered. However, these aspects are beyond the scope of this study.

capacity in installation-specific searches.⁵² The decision on the level of database system would then facilitate an “Installation Specific” methodology which would entail information on suspects in restricted reporting cases be kept in installation-specific databases (or fields in DSAIDS with installation-only access) or a “DoD DSAIDS Level” methodology where all the data on suspects would be maintained at the DoD SAPR level for inquiries from department-wide submissions.

These collection methodologies would facilitate a SAPR-MCIO interface protocol capability on all sexual assault allegations received by the MCIOs. As part of this protocol, MCIOs would submit the identifying information of a suspect in a freshly initiated sexual assault allegation to the local SARC office. That information would be run through the adopted methodology /process for comparison with previously identified suspects in restricted reporting cases. Potential matches would trigger contact with the previous restricted reporting victim to determine if he/she would consider transitioning to unrestricted status given the new allegation. If the restricted reporting victim is then willing to transition, information concerning this first allegation would be released to the responsible MCIO for further investigation.

The collection methodologies would also facilitate an inter-SAPR office review capability of previous cases to allow for potential linkage of a suspect between two restricted reports. In cases where a suspect is identified as part of a restricted case, the SARC would submit the identifying data through the adopted methodology/process for comparison. Potential matches would trigger contact with the previous restricted reporting victim by that installation/activity SARC to determine if he/she would consider transitioning to an unrestricted status given the new information. If the previous restricted reporting victim agrees, the fact a

⁵² In this system, the information would remain at the installation or activity where the allegation was made (and linked to a second base’s database if the suspect was stationed at another base). The inquiry process for alleged offenders would then need to be made at each installation / activity where he or she had been stationed in the past..

previous allegation exists against the suspect would be shared with the current restricted reporting victim to determine if he/she would be willing to transition to an unrestricted status given the new information. If both victims are in agreement, their cases would then be shared with the appropriate MCIO HQ for assignment to a designated field office for further investigation through the unrestricted category. Processes diagrams for both of these capabilities are provided in Annex I.

Conclusion

In the span of six years, the DoD has taken tremendous steps in increasing its effectiveness in responding to the scourge of sexual assault. These initial steps have occurred principally in the areas of improved responsiveness and support to victims and the improved awareness and education of the department as a whole. This study, focusing on the suspect aspect of sexual assault, has identified aspects of the DoD approach to sexual assault in which modifications and improvements could bring about balance in the DoD SAPR program and DoD MCIO approaches to this crime. Specifically, building on the research-established premise that a majority of sex offenders are repeat offenders, this study has shown how the collection and storage suspect identities in restricted reporting cases will allow for the potential linkage of suspects to multiple victims in past or future allegations where currently no such capability exists. The study, after presenting evidence that single-suspect/multi-victim cases are desirable for prosecutors but identified at a far lower rate than the current research would indicate they occur, has also pointed out how improved data collection from past single-suspect/multi-victim allegations may afford service MCIOs with additional avenues through which to pursue evidence in these cases. The time has now come for the DoD to take up these challenges and increase the suspect-focus in its approach to sexual assault. By increasing the capabilities of the SAPR

program and MCIOs , the DoD will further empower sexual assault victims, enhance identification of repeat sex offenders and, ultimately, transition its sexual assault program from a well-constructed venture based on the best of the civilian sector into an exceptional, more holistically balanced program leading the way in its capability to more thoroughly address the victim, suspect, and community aspects of sexual assault.



Bibliography

Books

Carney, Thomas P., *Practical Investigation of Sex Crimes: A Strategic and Operational Approach*. Boca Raton: FL, CRC Press, 2004

Crowley, Sharon R., *Sexual Assault: The Medicolegal Examination*. Stamford, CT: Appelton and Lange,

Estrich, S., *Real Rape*. Cambridge, MA: Harvard University Press, 1987

Hazelwood, Robert R. and Burgess, Ann W., *Practical Aspects of Rape Investigation: A Multidisciplinary Approach*. Boca Raton, FL: CRC Press, 1993

Nelson, T.S., *For Love of Country: Confronting Rape and Sexual Harassment in the U.S. Military*. New York, NY: Routledge, 2002

Professional Papers

Abbey, Antonia, and Michele Parkhill, A. Clinton-Sherrod, and Tina Zawacki. "A Comparison of Men Who Committed Different Types of Sexual Assault in a Community Sample." *Journal of Interpersonal Violence*, 22, no. 12, 2007: 1567-1580

Abbey, Antonia, and Pam McAuslan. "A Longitudinal Examination of Male College Students' Perpetration of Sexual Assault", *Journal of Consulting and Clinical Psychology*, no. 5, 2004: 747-756

Abel, Gene, Judith Becker, Mary Mittelman, Jerry Cunningham-Rathner, Joanne Rouleau, and William Murphy. "Self-Reported Sex Crimes of Nonincarcerated Paraphiliacs", *Journal of Interpersonal Violence*, 2, no. 1, 1987: 3-25

Bynum, Tim, Madeline Carter, Scott Matson, and Charles Onley. "Recidivism of Sex Offenders." Center for Sex Offender Management, May 2001

Campbell, Rebecca, Deborah Bybee, J. Kevin Ford, and Debra Patterson. *Systems Change Analysis of SANE Programs: Identifying the Mediating Mechanisms of Criminal Justice System Impact*. US Department of Justice: Report No. 226497, April 2008

Fitzgerald, Louise F., Alayne Ormerod, Linda Collinsworth, Angela Lawson, Maria Lytell, Leigh Ann Perry, Caroline Wright, and Nehama Babin. "Sexual Harrassment and Sexual Assault: Research Reviews and Recommendations." U.S. Army Research Institute for the Behavioral and Social Sciences, Research Report 1861, August 2006

Harned, M., A. Ormerod, P. Palmieri, L. Collinsworth, and M. Reed. "Sexual Assault by Workplace Personnel and Other Types of Sexual Harassment: A Comparison of Antecedents and Consequences." *Journal of Occupational Health Psychology*, 7, 2002: 174-188

Lisak, David and Paul Miller. "Repeat Rape and Multiple Offending Among Undetected Rapists." *Violence and Victims*, 17, no. 1, 2002

Lonsway, Kimberly A., Joanne Archambault, and David Lisak. "False Reports: Moving Beyond the Issue to Successfully Investigate and Prosecute Non-Stranger Sexual Assault", *The Voice*

Merrill, L.L., C. Newell, J. Milner, M. Koss, L. Hervig, S. Gold, S. Rosswork, and S. Thornton. "Prevalence of Pre-Military Adult Sexual Victimization and Aggression in a Navy Recruiting Sample." *Military Medicine*, 163, 1998: 209-212

McWhorter, Stephanie, Valerie Stander, Lex Merrill, Cynthia Thomsen, and Joel Milner. "Reports of Rape Reperpetration by Newly Enlisted Male Navy Personnel", *Violence and Victims*, 24, no. 2, 2009: 204-218

Sadler, A.G., B. Booth, B. Cook, and B. Doebbling. "Factors Associated with Women's Risk of Rape in the Military Environment." *American Journal of Industrial Medicine*, 44, 2003: 110

Spears, J. W. and C. Spohn. "The Effect of Evidence Factors and Victim Characteristics on Prosecutors' Charging Decisions in Sexual Assault Cases." *Justice Quarterly*, 14, 1997

Standar, Valerie, Lex Merrill, Cynthia Thomsen, Julie Crouch, and Joel Milner. "Premilitary Adult Sexual Assault Victimization and Perpetration in a Navy Recruit Sample." *Journal of Interpersonal Violence*, 23, no. 11, 2008: 1636-1653

The National Center for the Prosecution of Violence Against Women, 3, no. 1

Task Force Report on Care for Victims of Sexual Assault, Department of Defense, April 2004

Weinrott, Mark R. and Maureen Saylor. "Self-Report of Crimes Committed by Sex Offenders." *Journal of Interpersonal Violence*, 6, 1991: 286-300

E-mails

Anderson, Julie, Special Agent, Naval Criminal Investigative Service, Washington, DC. To the author. E-mail 18 Jan 11

Barnhill, Lee, Special Agent, Air Force Office of Special Investigations, Andrews AFB, MD. To the author. E-mail, 01 Feb 11

Buchanan, Carl, Program Manager, USAF Sexual Assault Prevention and Response, Arlington, VA. To the author. E-mail, 11 Feb 11

Katka, Capt Daniel, AF Sexual Assault Prevention and Response, Operations, Randolph AFB, TX. To the author. E-mail, 27 Oct 10.

Lisak, Dr David, Professor, University of Massachusetts, Boston, MA. To the author. E-mail. 08 Feb 11

DoD Directives / Instructions / SAPR/DoJ Reports:

Air Force Instruction (AFI) 36-6001, *Sexual Assault Prevention and Response (SAPR) Program*, 29 Sep 2008

Bureau of Justice, *Criminal Victimization 2000: National Crime Victims Survey*. Office of Justice Programs, U.S. Department of Justice, Washington, DC, 2001

Department of Defense Directive 6495.01, *Sexual Assault Prevention and Response Program*, 7 Nov 2008

Department of Defense Instruction 6495.02, *Sexual Assault Prevention and Response Program Procedures*, 13 Nov 2008

DoD Care of Victims of Sexual Assault Task Force. Washington, DC: Department of Defense, April 2004

DoD Report on Sexual Assault in the Military, FY 2004. Washington, DC: Department of Defense, May 2005

DoD Report on Sexual Assault in the Military, FY2009. Washington, DC: Department of Defense, March 2010

Department of Justice, *National Crime Victimization Survey, 2005*. Study No 22746, 2005

Online Resources

Alaska State Government. "Alaska Statewide Protocol For Sexual Assault Response Teams." Alaska State Department of Public Safety.
<http://www.dps.state.ak.us/ast/images/SARTProtocols.pdf>

Colorado Coalition Against Sexual Assault. "Colorado Coalition Against Sexual Assault – Statewide Sexual Assault Response Team Manual, Version I."
<http://www.ccasa.org/documents/Colorado%20Coalition%20Against%20Sexual%20Assault%20-%20SART%20Manual%20-%20Version%20I.pdf>

KY Association of Sexual Assault Programs. "Developing A Sexual Assault Response Team: A Resource Guide For Kentucky Communities." <http://kyasap.brinkster.net/Portals/0/pdfs/SANE-COMMUNITYRESOURCE.pdf>

Michigan Coalition Against Domestic and Sexual Violence. "Preventing Intimate and Sexual Violence in Michigan: Prevention Plan Highlights for 2010-2015."

<http://www.mcadsv.org/resource/prevention/files/ExecutivePreventionReport.pdf>

National Sexual Violence Resource Center. "About the National Sexual Violence Resource Center." <http://www.nsvrc.org/about/national-sexual-violence-resource-center>

New Jersey Department of Law and Public Safety, Division of Criminal Justice. "Attorney General Standards for Providing Services to Victims of Sexual Assault: 2nd Edition."

<http://www.nj.gov/oag/dcj/agguide/standards/standardssartsane.pdf>

Oregon Attorney General's Sexual Assault Task Force. "Sexual Assault Response Team SART Handbook, Version III, July 2009." <http://www.nsvrc.org/sites/default/files/SART-Handbook-Oregon-09.pdf>

Pennsylvania Coalition Against Rape. "Sexual Assault Response Team (SART) Guidelines."

http://www.pcar.org/sites/default/files/file/healthcare/SART_Guidelines.pdf

San Diego County. "San Diego County Sexual Assault Response Team: Standards of Practice for members of the Interdisciplinary SART Team."

<http://www.sandiego.gov/police/pdf/standards.pdf>

West Virginia Foundation for Rape Information and Services, Inc. "West Virginia Protocol For Responding to Victims of Sexual Assault: A Multidisciplinary, Victim-Centered Approach."

<http://www.fris.org/Sections/07-Publications/PDFs/Books/WVProtocol.pdf>

Winona County, Minnesota Sexual Assault Interagency Protocol. "Home Page for Sexual Assault Interagency Protocol." <http://www.winonacounty.com/>

Winona County, Minnesota Sexual Assault Interagency Protocol. "Victim-Centered System."

<http://www.winonacounty.com/Victim.htm>

Annex A – DoD SAPR Program Background

Following very public and painful sexual assault scandals which culminated with the 2003 US Air Force Academy issue, the Department of Defense (DoD) came under fire for both the prevalence and alleged poor handling of sexual assaults within the ranks. This scrutiny took the form of both local and more senior reviews within the department and its subordinate services as well as questioning from other US government branches and a great deal of negative coverage in the media. While painful for all involved, these reviews and close examination were long overdue and produced sweeping changes as to how DoD elements would handle sexual assault allegations. Following the US Air Force Academy scandal and subsequent investigations which produced career-ending actions for several senior leaders, broader questions were highlighted which specifically called into question the way DoD service branches encouraged victims of sexual assault to come forward and report. Also of concern was how those same victims were supported during the initial phase and subsequent actions associated with investigation and prosecution of the cases and, overall, the historic emphasis the services placed on accountability of alleged offenders. Sometimes this emphasis came at the expense of how victims were treated and supported during the course of sexual assault investigations and subsequent action phases – creating what could be referred to as a heavily suspect-focused strategy.

The culmination of these various calls for review and reform came in the form of a 2004 Task Force commissioned by then Secretary of Defense Donald Rumsfeld who called for a “...review of all sexual assault policies and programs among the Services and DoD, and recommend changes necessary to increase prevention, promote reporting, enhance the quality and support provided to victims, especially within combat theaters, and improve accountability

for offender actions.”⁵³ The Task Force’s report in April 2004 produced 35 findings with 9 broad recommendations.⁵⁴ Of relevance to the purpose of this study were findings which (1) dealt with both the need to overcome inherent barriers victims experience in reporting sexual assaults, namely concerns they won’t be believed and concerns about the criminal justice system’s ability to respond to or prevent such incidents and (2) the seemingly opposed concerns of interviewees who conceded how a lack of confidentiality can present a barrier to reporting but who also struggled with this confidentiality as it either delays or prevents an investigation which would allow the commander to hold offenders accountable and ensure service community safety.⁵⁵ While the report in total is far more comprehensive than these two points, they emerged as critical themes to be integrated into the coming DoD policy.

These themes, and the other core issues identified were formally incorporated in the DoD’s Sexual Assault Prevention and Response Program (SAPR), DoD Directive 6495.01 and DoD Instruction 6495.02, which built on these themes and took the position of increasing the victim-focus in confronting sexual assault through the DoD SAPR program, placing more focus on the victims of sexual assault and their perceived barriers to reporting versus the historical approach of primarily pursuing accountability for those who had allegedly committed the crime – the heavily suspect-focused approach. The program did not look to shy from pursuing those who carry out these crimes; rather it encouraged victims of these offenses to come forward and report and, to facilitate this, created the ability for reporting of alleged offenses without moving immediately into command involvement and a criminal investigation by one of the MCIOs. This new form of confidential reporting, formally identified as restricted reporting, was a first in DoD history and empowered the victim with an option in how she or he wanted to handle the initial

⁵³ DoD Care of Victims of Sexual Assault Task Force, US Department of Defense, April 04, pg v

⁵⁴ DoD TF, Apr 04, pgs 18-55

⁵⁵ DoD TF, Apr 04, pgs 28 and 31

and follow on responses to their allegation. Specifically, DODD 6495.01 states “Restricted reporting is intended to give victims additional time and increased control over the release and management of their personal information, and to empower them to seek relevant information and support to make more informed decisions about participating in the criminal investigation.”⁵⁶ Further, the instruction established the Sexual Assault Prevention and Response Office (SAPRO) within the DoD and each of the services and identified Sexual Assault Response Coordinators (SARCs) as the focal points for incidents of sexual assault within the DoD community and the gatekeepers of information concerning those assaults for their services and bases in both the restricted and unrestricted categories.

In this gate keeping and coordination capacity, the office of the SARC was entrusted with a great deal of senior level access and backing, authority in acting as the central point of contact to coordinate community sexual assault response when an allegation is reported, and was made part of the identified class of individuals who could receive allegations from victims under the restricted reporting program which includes healthcare personnel, Victim Advocate personnel (who fall under the office of the SARC), and chaplains.⁵⁷ Further, SARCs were empowered with the ability to not only receive information from victims of sexual assault but to also support them through education on the aspects of restricted and unrestricted reporting and the advantages of moving into an unrestricted status. Also, SARCs were entrusted with the ability to do preliminary evidence collection in the form of physical evidence provided by the victim and the collection of Sexual Assault Forensic Examination (SAFE) kits and the collection of data

⁵⁶ Department of Defense Directive 6495.01, pg 14

⁵⁷ DoDD 6495.01, pgs 11, 15, Department of Defense Instruction 6495.02, pg 15-18

relevant to the support provided to that victim along with a computer-based repository to track victim assistance, the Defense Sexual Assault Incident Database System (DSAIDS).⁵⁸



⁵⁸ DoDD 6495.01, pg 11, 15 and DoDI 6495.02, pg 15-18

Annex B – DoD SAPR Program Analysis

The Department of Defense (DoD) has carried out great strides in reforming how it handles the scourge of sexual assault among its force. A great deal has been done to acknowledge and address both the cultural and military specific barriers that have historically prevented victims from coming forward to report these offenses and receive assistance. The 2004 Task Force report identified these barriers as (1) concerns they will not be believed, (2) feelings of embarrassment and stigma, (3) ambiguity about what constitutes sexual assault, (4) concerns the criminal justice system (and the chain of command) is largely ineffective at responding and to or preventing such incidents, (5) fear of reprisals from the offender, (6) repercussions against victims for their own misconduct, (7) damage to reputations and/or careers, (8) negatively impact unit mission, unit morale and cohesion, (9) bring into question their sexuality, and (10) possibly delay redeployments or changes of assignment.⁵⁹ As previously noted in Annex A, two principle aspects in these reforms were the DoD-instituted policy introducing 1) a confidential reporting mechanism which allows the victim access to support and care in a confidential setting while 2) also empowering those victims with information on the two vehicles of reporting, on the investigative process in sexual assault allegations, and on their ability to decide when, if ever, information about the circumstances of their alleged assault would become available to commanders and MCIOs responsible for accountability in these matters. Based on a review of the work which led to the new policy, it is clear that it was the belief of those involved that providing these mechanisms of confidentiality and empowerment to victims would help overcome the cultural and service-specific barriers and encourage more victims to come forward and thus produce more opportunity to both support those victims and address allegations through investigation and command involvement. These significant reforms,

⁵⁹ DoD TF, Apr 04, pgs 28-29

along with the institution of SARCs at the tactical level to act as the central point for all sexual assault allegations, mandated training for the department's employee base on the nature of sexual assault and the state of DoD sexual assault reporting policy, and more specifically, targeted annual training for first responders to sexual assault, has fundamentally changed the way sexual assault matters were processed within the DoD. The emphasis was now clearly on a program which would emphasize both a victim-focus and a community-focus.

This significant reform in the handling of sexual assault cases did not come without its critics – namely commanders and members of the MCIOs who had long been accustomed to the previous suspect-focus in these matters. Historically, service leaders and DoD investigators viewed these cases for their end state – the identification of the alleged offender who would then be held accountable, if the evidence permitted, for his or her actions. This was likely viewed as both obtaining vindication for the victim and also promoting the safety of the force by removing these offenders from the ranks. With the adoption of a confidential reporting format, commanders and DoD criminal investigators were left with the sense they would be blinded to the possibility of a sex offender in their units or activities and be powerless to protect their soldiers, sailors, airmen and marines in general and, more specifically, hold the offender accountable. While those interviewed as part of the 2004 DoD Sexual Assault Task Force acknowledged the value of a confidential reporting vehicle, the persistence of these underlying accountability and safety concerns were also noted prompting team members to express in the report that, “Resolving these inherent tensions is complicated and must be addressed.”⁶⁰ However, the subsequent DoD instructions and services programs covering our current sexual assault policy actually only address these conflicting concerns by embracing the theme that more reporting options will ultimately equate to greater probabilities in victims coming forward with

⁶⁰ DoD TF, Apr 04, pg 32

some of those victims choosing to move from confidential to open reporting. This would produce more awareness of sexual assault allegations overall in the hopes of increasing the chances of actionable outcomes.

This concern over a potential “safety gap” created by a confidential reporting capability gets to the heart of the under-utilization of the current SAPR program. While the narrowly-viewed old way of “doing business” in DoD sexual assault investigations of providing no alternatives of reporting for victims and little-to-no organized support throughout the process is rightfully a thing of the past, the heavily victim-focused / community-focused response and education program is missing opportunities to improve on our ability to identify, separate from the force, and hold accountable sex offenders within the service departments – a complementary suspect-focus. Central to these opportunities is the growing body of research which suggests that sex offenders are more likely to be pattern or repetitive offenders than the commonly held belief, especially in the case of acquaintance rape scenarios, that these offenses are one-off miscommunications. While this fact should have impact throughout society, the “closed community” environment of the service branches and the current SAPR program are uniquely situated to seize on this fact and make the DoD approach to sexual assault truly holistic in approach and execution.

Annex C – 2010-11 USAF JAG SAPR Survey Questions / Summary Responses

	Response %	Response #
1. What is your current position?		
A. Staff Judge Advocate	52.7%	78
B. Area Defense Counsel	18.9%	28
C. Senior Trial Counsel/Senior Defense Counsel	12.8%	19
D. Military Judge	9.5%	14
E. Other (former/current JAG Officer in HQ Staff / non-practicing billet)	6.1%	9
2. How many years of military justice experience do you have?		
A. less than 5	20.8%	31
B. 5-10	30.9%	46
C. 11-15	24.2%	36
D. 16-20	13.4%	20
E. more than 20	10.7%	16
3. Please indicate previous capacities in which you've served. Mark all that apply.		
A. Staff Judge Advocate	65.4%	83
B. Area Defense Counsel	72.4%	92
C. Senior Trial Counsel/Senior Defense Counsel	23.6%	30
D. Military Judge	14.2%	18

4. During the course of your career, please provide an estimate of how many adult-on-adult sexual assault allegations you have handled directly through non-judicial punishment and/or court martial proceeding (as an SJA, ADC, STC/SDC, or Military Judge combined)?

A. 0 (Questionnaire Complete – Do Not Proceed)	3.4%	5
B. 1-10	33.1%	49
C. 11-20	23.0%	34
D. 21-30	16.2%	24
E. 31-40	5.4%	8
F. 41-50	3.4%	5
G. 51-60	3.4%	5
H. more than 60	12.2%	18

5. In what percentage of all of these allegations would you estimate you were made aware of the potential of multiple victims/pattern offense evidence (regardless of the ages of those secondary victims) through the course of the criminal investigation, subsequent fact-finding, etc.?

Please answer regardless of whether or not the evidence was used directly in the decision process and/or pursuit of action (non-judicial or otherwise) in the matter.

A. 0 (Questionnaire Complete – Do Not Proceed)	11.7%	17
B. less than 10%	37.9%	55
C. 11-20%	33.8%	49
D. 21-30%	9.0%	13
E. 31-40%	2.8%	4
F. 41-50%	2.8%	4
G. more than 50%	2.1%	3

6. For this question, please consider those adult-on-adult sexual assault cases in your career where evidence of multiple victims, pattern evidence, etc was used (regardless of the ages of those secondary victims) in deliberations concerning actions against the suspect by decision makers (ex: commanders), panels, judges, etc. Based on your experience, are cases with multiple victim evidence less likely, more likely, or just as likely to result in action against the suspect as against suspects in cases involving evidence of only a single victim?

A. Less likely to result in action (NJP/CM) against the suspect	0.0%	0
B. As likely to result in action (NJP/CM) against the suspect	38.3%	49
C. More likely to result in action (NJP/CM) against the suspect	61.7%	79



Annex D – AFOSI / NCIS Adult-on Adult Sexual Assault Data – CY08/09

As part of the request for information from the MCIOs, the following questions were forwarded to representatives of AFOSI, NCIS, and CID:

Q1: What were the total number of sexual assault subjects identified in CY2008 and CY2009 (excluding child victim cases)?

	<u>2008</u>	<u>2009</u>
US Air Force	365	370
US Navy	368	384
US Marine Corps	239	254

Q2: What were the number of those subjects (by year) who had more than one victim linked to them in an investigation (excluding child victim cases)?

	<u>2008</u>	<u>2009</u>
US Air Force	17	11
US Navy	12	22
US Marine Corps	14	7

Q3: What were the outcomes against all subjects identified in 2008 and 2009?

This data was delivered in different manners from AFOSI and NCIS. As such, the various actions ranging from court martial conviction, non-judicial punishment, discharge actions, etc were extracted and utilized. Those cases where no action was taken or command action was pending were available but extracted for this analysis:

	<u>2008</u>	<u>2009</u>
US Air Force	85	69
US Navy	72	69
US Marine Corps	67	83

Q4: What were the outcomes against subjects linked to multi-victim sexual assault cases in 2008 and 2009?

This data was delivered in different manners from AFOSI and NCIS. As such, the various actions ranging from court martial conviction, non-judicial punishment, discharge actions, etc were extracted and utilized:

	<u>2008</u>	<u>2009</u>
US Air Force	9	3
US Navy	7	10
US Marine Corps	7	3

From these data sets, several points of interest were compared:

1. The percentage of cases of single suspect/multiple victim cases of annual total cases:

	<u>2008</u>	<u>2009</u>
US Air Force	4.66%	2.97%
US Navy	3.26%	5.73%
US Marine Corps	5.86%	2.76%

2. The percentage of “action taken” of annual total cases:

	<u>2008</u>	<u>2009</u>
US Air Force	23.29%	18.65%
US Navy	19.6%	17.96%
US Marine Corps	28.03%	32.67%

3. The percentage of “action taken” of single-suspect / multiple-victim cases:

	<u>2008</u>	<u>2009</u>
US Air Force	52.9%	27.3%
US Navy	58.33%	45.45%
US Marine Corps	50%	42.85%

Annex E – SAPR FY09 Data Showing Unidentified Suspect Data Sets

A review of the FY09 DoD Report on Sexual Assault in the Military was conducted for this report to ascertain the rate of unidentifiable suspects in DoD sexual assault allegations. While a specific field for “stranger rape” allegations was not found, the data fields used to provide demographic information on suspects in DoD allegations showed a relatively low rate of being unable to provide data relevant to the question. From this, it was extrapolated that DoD incidents of sexual assault follow those in the greater population in that a vast majority of sex offenders who carry out assaults against victims are known to those victims. The “unidentified” or “unknown” field percentages are included below:

- Unidentified Subjects on Services Member – 12% ⁶¹
- Unknown Gender of Subjects in Sexual Assaults – 11% ⁶²
- Unknown Age of Subjects in Sexual Assaults – 23% ⁶³
- Unknown Grade of Subjects in Sexual Assaults – 18% ⁶⁴
- Unknown Age of Subjects in Sexual Assaults in Combat Areas of Interest – 24% ⁶⁵
- Unknown Grade of Subjects in Sexual Assaults in Combat Areas of Interest – 20% ⁶⁶

⁶¹ DoD Report on Sexual Assault in the Military, FY 2009, pg 62

⁶² DoD Report on Sexual Assault in the Military, FY 2009, pg 69

⁶³ DoD Report on Sexual Assault in the Military, FY 2009, pg 70

⁶⁴ DoD Report on Sexual Assault in the Military, FY 2009, pg 70

⁶⁵ DoD Report on Sexual Assault in the Military, FY 2009, pg 79

⁶⁶ DoD Report on Sexual Assault in the Military, FY 2009, pg 80

Annex F - Proposed Restricted Report Victim Survey

As a US military member currently receiving assistance through the DoD Sexual Assault Prevention and Response program, you have been identified as being able to assist in making improvements to our program. The DoD is considering instituting a process by which the identifying information of suspects in Restricted Report allegations could be stored for future use with, and only with, the express consent of the individual who provided the information. This process would allow Restricted Report victims to be contacted in the future if a suspect whose information is consistent with that of their offender were identified in other sexual assault allegations involving Restricted or Unrestricted reporting. The original victim would then be asked if, based on the new allegation involving a second victim, if he or she would like to transition their previous report to Unrestricted and have their allegation investigated.

Bearing this potential change in mind, we would appreciate your responses to the following questions:

1. Under the current program construct (no storage or future search/reference capability), would you feel comfortable providing the identifying information of your assailant?
2. Under the proposed changes to the program noted above (confidential storage and future search/reference capability), would you feel comfortable providing the identifying information of your assailant?
3. If you learned that the individual who assaulted you had been alleged to have done so to another victim in the past, would it cause you to consider transitioning from Restricted to Unrestricted Reporting?

4. If you learned that the individual who assaulted you had another allegation made against them by another victim in the future, would it cause you to consider transitioning from Restricted to Unrestricted Reporting?



Annex G - Proposed Fields for Suspect-Victim and Multiple Victim Relationship Fields

During the course of this study, it was proposed that greater focus on suspect-victim and multiple victim relationships may prove beneficial to improved understanding of DoD sexual assault allegations and provide data which could guide DoD MCIO investigations in the future toward identifying secondary victims of sex offender suspects. Below are recommendations for data sets for further consideration:

The Subject-Victim focused data collection should include:

Subject-Victim – Stranger (visualized but not known to victim)

Subject-Victim – Stranger (not visualized by victim)

Subject (Superior) – Victim (Subordinate)

Subject (Subordinate) – Victim (Superior)

Subject – Victim – Casual Acquaintance (< 72 hrs)

Subject – Victim – Casual Acquaintance (> 72 hrs)

Subject-Victim – Professional Acquaintance

Subject-Victim – Intimate Relationship (ex. dating relationship, romantic cohabitant, etc)

Subject-Victim – Spouse

The Multiple Victim focused data collection should include:

Multiple Victims in Same Assault Incident (same location and time frame)

Multiple Victims in Separate Incidents (different locations and time frames)

Incidents < 24 hrs apart

Incidents > 24 hrs apart

Multiple Victims Known to Each Other

Relationship – Professional (ex. primary knowledge based on assignment)

Relationship – Personal (ex. friendship / social knowledge of each other)

Multiple Victims Not Known to Each Other



Annex H – Proposed COAs for Data Collection Team Structure and Methodology

As part of this study, a recommendation was made for the review of previous DoD MCIO historical case files involving single suspects linked to multiple offenders. The common theme among these groups must be the consistency in the information gathered and the identity of the critical information which could be exploited for enhancing DoD investigative abilities to identify other potential victims. In order to carry out those reviews, the following courses of action (COAs) are offered for team composition and basic methodology:

COA 1: A single team comprised of DoD SAPR office members from the DoD level and/or mixed with DoD SAPR members from the service specific offices could be chartered to pursue the data collection initiative. This team could work with guidance provided real-time by external subject matter experts or with pre-compiled checklists/fields developed with their consultation.

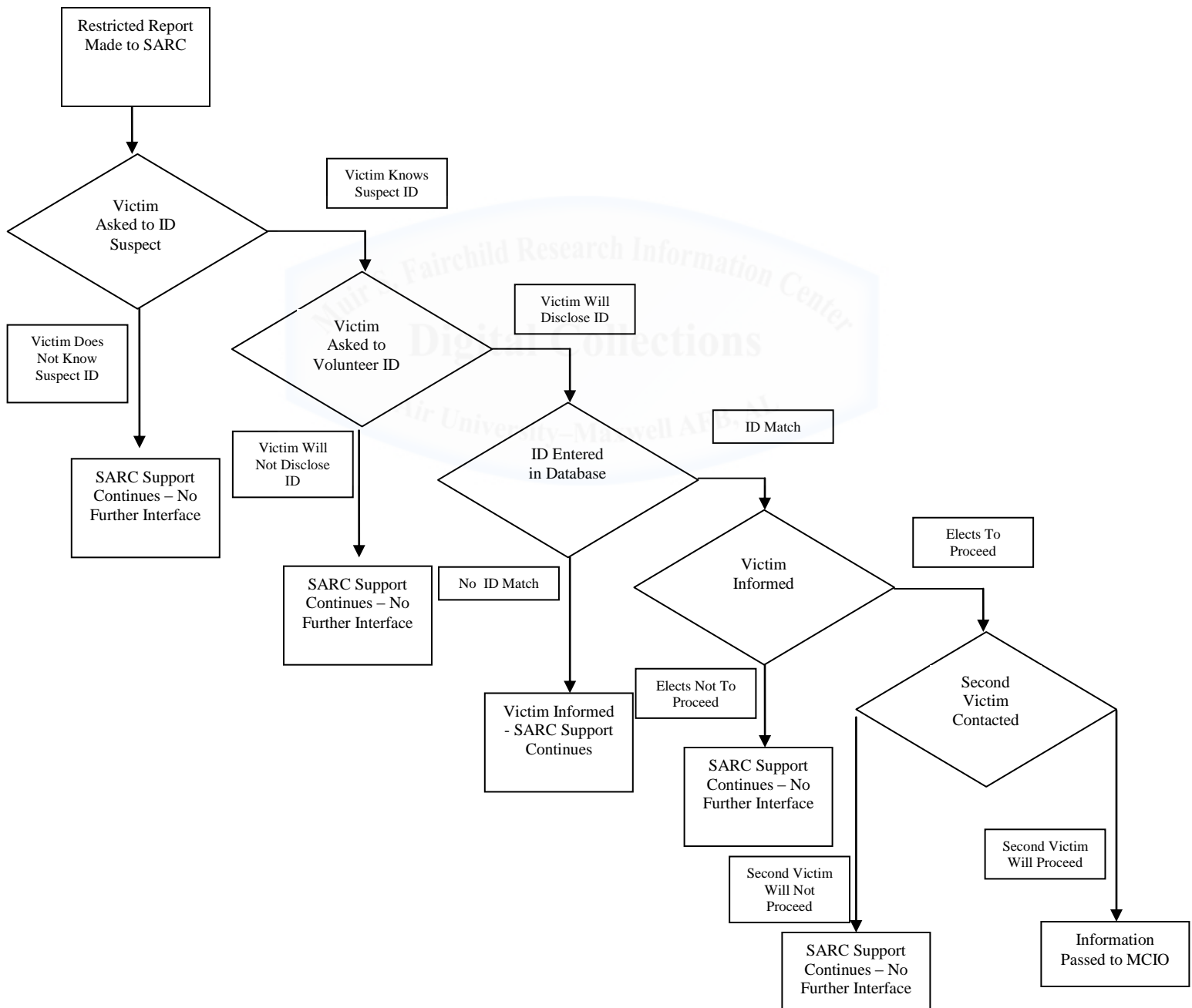
COA 2: The MCIOs charter their own teams to extract the information from their investigative files utilizing a template developed through a joint MCIO – DoD SAPR – subject matter expert team to ensure standardization of the data retrieved.

COA 3: A team comprised of the MCIO forensic science fellows attending the George Washington University forensic science masters degree program could be tasked with completing the review of each services' investigative files as a joint team utilizing a template developed through a joint MCIO – DoD SAPR – subject matter expert team to ensure standardization of the data retrieved.

Annex I - Proposed Restricted Report SARC/Unrestricted Report MCIO-SARC Processes

In the Restricted Reporting process, SARCs would be empowered to research the DoD-wide or base specific databases (through those installations' SARCs) to determine if a match for their current Restricted Report victim's suspect could be found. The process would flow as depicted below:

Figure 2: Restricted Report SARC Search Process



In the Unrestricted Reporting process an MCIO would submit the identifying information of a suspect, which was provided to them by a victim making an Unrestricted Report to their agency, to their local SARC. The SARC would then submit the suspect information to either the DoD-wide database or to the specific installations where the suspect had been permanently assigned or present for temporary duty and/or training. The process would then unfold as noted below as identity matches were made or discounted and, in the case of matches, as victims “owning” the prior Restricted Report with the potential match was contacted and asked if he or she would now elect to release their information based on the new information. The process, in its entirety, would proceed as noted below:

Figure 3: Unrestricted Report MCIO-SARC Interface & Search Process

